COMMENTS

The enclosed is responsive to the Examiner's Office Action of August 24, 2006 and is being filed pursuant to a Request for Continued Examination (RCE) as provided for under 37 CFR 1.114. At the time the Examiner mailed the Office Action claims 1-15 were pending. By way of the present response the Applicant has: 1) amended claims 1-9; 2) not canceled any claims; 3) not added any new claims. As such claims 1-15 remain pending. The Applicant respectfully requests reconsideration of the present application and the allowance of claims 1-15.

The Examiner has rejected independent claim 1 under 35 U.S.C 102(e) as being anticipated by U.S. Pat. No. 6,999,938 B1 (hereinafter, "Libman"). According to the Examiner, lines 6-13 of column 6 of Libman discloses the applicant's recited selection process. The Applicant has also amended claim 1 to more concretely recite the selecting process as follows:

> automatically selecting a group of users from said plurality of users, each user of said group of users having said attribute, said selecting including analyzing said respective information of each of said plurality of users, said attribute being identifiable from said respective information of each of said selected group of users;

The Applicant respectfully submits that Libman fails to disclose any kind of automated selection process that selects users. The Libman references instead appears to be directed to an automated selection process that selects

customized information to be sent to users. As best the Applicant can tell, the

process of Libman starts with a fixed set of users (in particular, those users

who are included in a database and/or who have responded to a marketing

communication). The process of Libman then analyzes information recorded

about of each of these users to customize the content ("variable information")

of a communication to be sent to each of the users. The automated selection

process of Libman selects proper content to be communicated to each user

but does not select the user base itself. See, e.g., Libman (emphasis added),

Col. 3, lines 4-6 ("[i[n one aspect, the invention provides a method for

automatically preparing customized replies in response to communications

from a plurality of clients"); Col. 3, lines 20-25 ("[i]n another aspect of the

invention, customized communications are prepared and sent to a plurality of

clients, nonpurchase responses from the clients are processed and automatic

replies are generated to each of the responses, each reply is specific to the

type of response requested by the client"); Col. 4, lines 4-7 ("[t]he apparatus

further includes processing means, operatively coupled to the storage

medium, for using decision information to **automatically select variable**

information for insertion into a reply to a particular client"); Col. 10, lines 20-

23 ("[t]he preferred method also includes a processing step . . . in which

decision information is used to **automatically select variable information for**

inclusion or provision in the client communication or communications");

Col. 13, lines 33-35 ("[t]he decision information generally will comprise criteria

for conditions used for **the selection of variable information**"); Col. 17, lines

51-52 ("[a]ccording to the method, the decision information is used or

processed to **automatically select variable information**"); Col. 17, lines 57-

62 ("[t]he apparatus according to the invention similarly includes processing

means operatively coupled to the storage medium for using the decision

App. No.: 10/042,899   -8-   Atty. Docket No.: 4676.P020
Amdt. dated Oct 17, 2996
Reply to Office action of Aug 24, 2006

information **to automatically select a subset of the variable information for the client**, or for each client where processing involves a plurality of client records"); Col. 18, lines 34-37 ("[b]y operating upon the decision information, such as database query demands based upon the client database fields, the system processes the client information and uses it **to select the variable information**").

The Examiner has persisted in citing Col. 6, lines 3-14 of Libman as covering the Applicant's claimed user selection process. However, as presented to the Examiner in a preceding Office Action, Col. 6, lines 3-14 merely provides a definition of "communication" that is sent to a user - not a process for selecting uers. See, Applicant's Office Action Response, mailed 7/6/06, pp. 5-6.

Thus the Libman reference simply fails to disclose a user selection process as claimed by the Applicant.

The Applicant also points out to the Examiner that the Applicant's claimed process also includes the "receiving of . . . an attribute provided by [the] first user as a criteria for identifying recipients of [the] inquiry." Again, the Libman reference does not appear to go into any significant detail as to how the client base is initially selected, whereas, the Applicant's claimed process specifically recites an attribute pertaining to an inquiry as being a criteria for identifying the client base. Therefore the Libman reference fails to disclose this aspect of the Applicant's claimed process as well.

With respect to independent claim 10, as stated to the Examiner in the Applicant's 7/7/06 response, the Applicant does not understand the Examiner's

response. Claim 10 recites a GUI yet the Examiner has essentially recited the same elements of Claim 1 in rejecting Claim 10. Moreover the Libman reference fails to disclose GUI details sufficient to cover the Applicant's Claim 10. Therefore the Applicant submits that Claim 10 is patentable over the Examiner's proffered theory of rejection.

Because the Applicant has demonstrated the patentability of all pending independent claims, the Applicant respectfully submits that all pending claims are allowable. The Applicant's silence with respect to the dependent claims should not be construed as an admission by the Applicant that the Applicant is complicit with the Examiner's rejection of these claims. Because the Applicant has demonstrated the patentability of the independent claims, the Applicant need not substantively address the theories of rejection applied to the dependent claims.

In the further interests of efficiency, the Applicant reserves the right under MPEP 2144.03.C to cause the Examiner to find in the prior art subject matter to which the Examiner has taken Official Notice at a later time in the prosecution of the present case when the subject matter of such prior art is actually at issue.
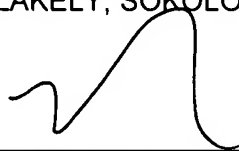
CONCLUSION

Applicant respectfully submits that all rejections have been overcome and that all pending claims are in condition for allowance.

If there are any additional charges, please charge them to our Deposit Account Number 02-2666. If a telephone conference would facilitate the prosecution of this application, the Examiner is invited to contact Robert B. O'Rourke at (408) 720-8300.

Respectfully Submitted,
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